RNI No. MAHBIL /2012/46121

सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग दोन

वर्ष १०, अंक २७] शुक्रवार, एप्रिल १९, २०२४/चैत्र ३०, शके १९४६ [पृष्ठे २८, किंमत : रुपये १२.००

असाधारण क्रमांक ३९

प्राधिकृत प्रकाशन

JAWAHARLAL NEHRU PORT AUTHORITY

No. JNPA/FIN/TARIFF/2024-25/590

Order

(Passed on this 19th day of April 2024)

This case relates to the proposal received from Nhava Sheva International Container Terminal Private Limited (NSICTPL), a BOT Operator at Jawaharlal Nehru Port Authority (JNPA), *vide* its letter dated 21 November 2023 for general revision of its Scale of Rates (SOR) under Tariff Guidelines, 2019.

1. The Tariff Authority for Major Ports vide its Order No. TAMP/54/2011- NSICTPL dated 14 February 2012 had revised the SOR of the NSICTPL based on the proposal then filed by NSICTPL following 2005 Tariff Guidelines. The said order was notified in the *Gazette of India* on 1 March 2012 *vide* Gazette No. 55. Vide the said Order, this Authority had effected an across the board reduction of 27.85% over the then prevailing tariff of NSICTPL. The then revised Scale of Rates and conditionalities of the NSICTPL were to come into effect after expiry of 15 days from the date of notification of the said Order in the *Gazette of India* and was to be in force till 31 December 2014.

2. Aggrieved by the said Tariff Order, the NSICTPL approached the Hon'ble High Court of Bombay challenging the tariff order dated 14 February 2012 by its Writ Petition No. 2954 of 2012. The Hon'ble High Court has stayed the tariff Order dated 14 February 2012 and has allowed the NSICTPL to levy the tariff as approved *vide* earlier tariff Order dated 30 December 2008 *vide* its Order dated 2 July 2012. The Order of the High Court is still in force and the NSICTPL continues to levy the tariff as approved under tariff Order dated 30 December 2008.

3. The Ministry of Shipping (MOS), in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, has vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. The Tariff Guidelines, 2019, has been notified in the *Gazette of India* on 7 March 2019 *vide* Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Guidelines, 2019, Working Guidelines to operationalize the Tariff Guidelines, 2019, has been notified in the *Gazette of India* on 11 July 2019, *vide Gazette* No.244.

4. Major Port Authority Act, 2021 is made applicable from 3rd November 2021 which converted the Tariff Authority for Major Ports (TAMP) into an Adjudicatory Board to adjudicate the disputes or differences arising between Major Port Authorities and Public Private Partnership Concessionaires. In view of the above, the earlier role of TAMP to evaluate and pass orders with regards to proposals for tariff revision of Public Private Partnership Concessionaires was entrusted upon the Major Port Authority by Ministry of Ports, Shipping and Waterways via letter- PD-13/6/2023-PPP/e-357407 dated May 9, 2023.

5. NSICTPL had filed its proposal dated 29th March 2023 for general revision of its SOR, following Tariff Guidelines, 2019. In the proposal submitted, NSICTPL had considered years 2019-20, 2020-21, 2021-22. Since Tariff Guidelines 2019, did not allow to escalate applicable WPI on the said proposed SOR and taking into cognizance the finalization accounts of NSICTPL for the FY 2022-23, NSICTPL was advised to re-submit the revised Tariff proposal *vide* e-mail dated 9th October 2023.

6. Accordingly, NSICTPL has filed its revised proposal dated 21st November 2023 for general revision of its SOR, following Tariff Guidelines, 2019. The NSICTPL has made the following submissions :

(*a*) The ARR has been assessed for the year 2023-24 based on the audited financials of preceding three financial years *i.e.* 2020-21, 2021-22 & 2022-23 as per the methodology prescribed under the 2019 Tariff Guidelines.

(*b*) The audited accounts for financial years 2020-21, 2021-22 & 2022-23 have already been submitted.

(*c*) Form Nos. 1 to 8, certified by a Chartered Accountant, wherever required, is furnished.

(*d*) NSICTPL has carefully gone through the Tariff Guidelines, 2019 issued by the Ministry of Shipping and notified by the Tariff Authority for Major Ports (TAMP) (bearing no. TAMP/61/2018-Misc vide Gazette Notification No.92 dated 7 March 2019) and the Working Guidelines, 2019 issued by TAMP in consultation with concerned BOT operators and Major Port Trusts and has prepared the proposal for fixation of tariff in accordance with the said Tariff Guidelines and Working Guidelines, in the formats and supporting documents as prescribed by the Tariff Authority for Major Ports. The proposed tariff will have a validity period of three years and a suitable proposal would be submitted at least three months before the expiry of the validity period.

7. The Highlights of the proposal are as follows :

(*a*) Annual Revenue Requirement (ARR) has been computed in accordance with Clause 2.1 of the Tariff Guidelines, 2019 at INR 73,456 lakhs on 31 March 2023.

(*b*) Since bidding process of NSICT was finalised before 29th July 2003, the tariff computation has taken into account royalty / revenue share as cost subject to maximum of the amount quoted by the next highest bidder for tariff fixation, *i.e.* 69.50% of the actual royalty paid. By an award dated 18th September, 2019 ("Award"), an Arbitration Tribunal has, inter alia, held that the Royalty per TEU needs to be converted to a Revenue Share and JNPA is directed to amend the License Agreement accordingly in consultation with NSICT within four months from the date of the award (*i.e* on or before 18th January 2020). To date an amended License Agreement is not in place. JNPA has challenged the award in the Bombay High Court and the same is still pending. Further, JNPA and NSICT have referred the matter with the Conciliation and Settlement Committee and the process of conciliation is currently on going. It is clarified for the avoidance of doubt that the proposal is submitted without prejudice to the Award and we reserve our rights in this regard. We will inform the Authority on any further developments in this regard.

(*c*) NSICTPL's Financial Statements are IND AS compliant. The relevant IND AS adjustments have been excluded and instead depreciation or other adjustments as per IGAAP have been included for computation of ARR in accordance with Clause 2.3.2 Tariff Guidelines 2019.

(*d*) The ARR so computed has been indexed by 12.12% as per escalation factor announced by TAMP for FY 2023-24. Indexed ARR has been computed at INR 82,357 lakh.

(*e*) NSICTPL has challenged the TAMP order dated 14 February 2012 in W.P. No. 2954 of 2012 and the order has been stayed by the Bombay High Court. Clause 3.1.1 of the Tariff Guidelines, 2019 provides that, *"The Scale of Rates of some of the BOT operators have not been reviewed due to litigations pending in the High Courts on the Tariff Orders passed by TAMP. The surplus / deficit over and above the admissible costs and permissible returns, if any, arising during the period of litigation will be subject to the orders of the respective Courts. Alternatively, MoS, concerned Major Port Trusts, concerned BOT operators and TAMP may decide on the treatment of the past period surplus arising during the period of litigation."*

As a result of the above challenge, no further orders were passed by TAMP under the 2005, Traiff Guidelines on account of the above stay granted by the Bombay High Court. The subject period under consideration upto March 2020 is subject matter of the on-going conciliation proceedings referred in point b) above. In the current application, NSICTPL has foregone ARR of 19311 lakh (6437*3) and deficit of Rs. 6216 Lakh (2072*3) for the three years period. In the event, there is any final order for the period up to March 2020 against NSICTPL, the NSICTPL reserves their right to set off such surplus determined against the ARR and deficit foregone, subject to the orders of the Court.

(*f*) As per previous order dated 20th February 2020, NSICTPL had foregone ARR of Rs.212.40 Crore for 3 years while determining the tariff. In computation of the surplus as per Form 8 of the enclosed application, conservatively reduced the allowable return on the capital employed from Rs.201.65 Crore to Rs.130 Crore, by reduction of Rs.70.80 Crore annually (70.80*3=212.40 crore for 3 years)

(*g*) As regards Coastal tariff, the tariff has been aligned at 60% of normal handling charges for Foreign Containers in accordance with Policy Directions of Government, Ministry of Shipping and Clause 8.3 of Working Guidelines 2019 with reference to Tariff Guidelines, 2019.

(*h*) The tariff proposed in the attached SOR will be indexed by 60% of Wholesale Price Index as announced by the Government of India. Such revisions will be first made on 1st May 2024 and subsequently on 1st May every year.

(*i*) Tariff for Hazardous and Over Dimensions cargo has been proposed at a premium of 50% on Handling and Storage Charges in accordance with Clause 9.9.3 of Working Guidelines 2019 with reference to Tariff Guidelines 2019.

(*j*) Exchange Rate used for calculating US Dollar denominated revenue is Rs.83.

8. (*a*) The NSICTPL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1 and revenue estimation at the proposed rate in Form-4. The ARR computation furnished by NSICTPL is tabulated below :—

Sl. No.	Description		2020-21 Y1	2021-22 Y2	2022-23 Y3
(1).	**Total Expenditure (As per Audited Annual Accounts)**	Note 1			
(i).	Operating expenses (including depreciation)		50,582	66,596	80,189
(ii).	Finance and Miscellaneous expenses (FME)		859	1,191	2,841
	Total Expenditure 1=(i)+(ii)		**51,441**	**67,786**	**83,030**
(2).	Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP	**Form 6 A and Note 2**			
(i).	Depreciation				

Sl. No.	Description		2020-21 Y1	2021-22 Y2	2022-23 Y3
(*ii*).	Other expenditure items, if any, to be listed				
	Total of Adjustments 2=(i)+(ii)				
(3)	**Less Adjustments:**				
(*i*)	Actual Royalty / Revenue share paid to the port		29,079	38,141	46,991
(*ii*)	Interest on loans		810	1,118	2,772
(*iii*)	Provision for bad and doubtful debts		0	-	1
(*iv*)	Provision for slow moving inventory		38	75	38
(*v*)	Other provisions, if any		-	857	1,840
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]		**29,927**	**40,191**	**51,642**
(4)	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	**Form 2 and Note 3**	20,210	26,508	32,659
(5)	**Total Expenditure after Total Adjustments (5 = 1+2+3)**		**41,724**	**54,103**	**64,047**
(6)	Average Expenses of SI. No.5 = [Y1 + Y2 + Y3] / 3				53,291
(7)	**Capital Employed**				
	(*i*) Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)				1,19,185
	(*ii*) Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)				416
	(*iii*) Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	**As per Form 3 & Note 4**			
	(*a*) Inventory				293
	(*b*) Sundry Debtors				-
	(*c*) Cash				6,136
	(*d*) Sum of (a)+(b)+(c)				**6,428**
	(*iv*) Total Capital Employed [(*i*)+(*ii*)+(*iii*)]				1,26,030
(8)	**Return on Capital Employed 16% on SI. No.7 (iv)**				20,165
(9)	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**				73,456
(10)	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2018-19, then the applicable WPI is 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)**				12.12%

Sl. No.	Description		2020-21 Y1	2021-22 Y2	2022-23 Y3
(11)	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No. 10 above.**				82,357
(11A)	**ARR forgone**				6,438
(12)	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above (after Adjustment of Past Surplus) [(11)-11A)]**	**As per Form 4 & Note 5**			75,919

(*b*) The NSICTPL has furnished in Form 4, the working of revenue estimation for the existing tariff as well as the proposed tariff for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is Rs. 75,919 lakhs.

(*c*) The NSICTPL has furnished a copy each of the Audited Annual Accounts for the years 2020-21 (April 2020 to March 2021), 2021-22 (April 2021 to March 2022) and 2022-23 (April 2022 to March 2023).

(*d*) The Proposal of NSICT is as follows :

(*i*) Tariff

Sl. No.	Description	Existing tariff	Proposed Tariff	% increase over the existing tariff
(1)	(2)	(3)	(4)	(5) = (4-3)/3
	Tariff Items			
	Container traffic (in TEUs)			
A	**Foreign containers**			
	(1) Loaded Containers			
	(*a*) 20 ft containers	7,119	7,619	7%
	(*b*) 20-40 ft containers	10,679	11,429	7%
	(*c*) Above 40 ft containers	14,238	15,238	7%
	(2) Empty Containers			
	(*a*) 20 ft containers	6,198	6,633	7%
	(*b*) 20-40 ft containers	9,298	9,950	7%
	(*c*) Above 40 ft containers	12,396	13,266	7%
	(3) Reefer Containers			
	(*a*) 20 ft containers	7,119	7,619	7%
	(*b*) 20-40 ft containers	10,679	11,429	7%
	(c) Above 40 ft containers	14,238	15,238	7%
	(4) HAZ Containers			
	(*a*) 20 ft containers	10,679	11,429	7%
	(*b*) 20-40 ft containers	16,018	17,143	7%

	(*c*) Above 40 ft containers	21,357	22,857	7%
	(5) ODC Containers			
	(*a*) 20 ft containers	10,679	11,429	7%
	(*b*) 20-40 ft containers	16,018	17,143	7%
	(c) Above 40 ft containers	21,357	22,857	7%
B	**Foreign Transhipment containers**			
	(1) Loaded Containers			
	(*a*) 20 ft. containers	4,606	4,929	7%
	(*b*) 20-40 ft. containers	6,909	7,394	7%
	(*c*) Above 40 ft. containers	9,212	9,858	7%
	(2) Empty Containers			
	(*a*) 20 ft. containers	3,915	4,190	7%
	(*b*) 20-40 ft. containers	5,872	6,284	7%
	(*c*) Above 40 ft. containers	7,830	8,379	7%
C	**Others (Restow - Foreign)**			
	(1) Loaded Containers			
	(*a*) 20 ft. containers	20,894	22,359	7%
	(*b*) 20-40 ft. containers	31,340	33,539	7%
	(*c*) Above 40 ft. containers	41,787	44,719	7%
G	**Hatch Cover**			
	Foreign Vessel	15,669	16,768	7%
	Coastal	15,669	16,768	7%
I	**Reefer Revenue - Supply of Electricity**	7,667	7,667	0%
J	**Storage**			
	Full	130	139	7%
	Empty	1,226	1,312	7%
K	**Storage - Export - FCL& LCL (4-7 days)**	-	$ 4.03	New Slab
L	**Other revenue (Ref Note 4)**	285	305	7%
M	**ITRHO - Shipping Lines**	66	66	0%
N	**ITRHO JNPT Terminals**	190	190	0%

(*ii*) Revenue Requirement is foregone by Voluntary adjustment of past surplus at 6438 Lakh per annum.

(*e*) The WPI occurring between the relevant dates was ascertained from the Ministry of Commerce & Industry, Government of India. Considering variation in WPI occurring between 1 January 2022

and 1 January 2023, the Authority has approved Annual Indexation of 12.12% (at 100% of the WPI variation) for computation of indexed ARR as per Clause 2.8 of the Tariff Guidelines, 2019 for tariff revision proposal filed in the year 2023-24.

(*f*) M/s NSICTPL submitted a proposal for revision of its general tariff vide letter dated 21st November 2023 under 2019 Tariff Guidelines seeking an overall increase of 7.00% as compared to their current tariff.

(*g*) In accordance with the consultative procedure prescribed, a copy of the proposal of NSICTPL dated 21st November 2023 was forwarded to the concerned users/ user organisations seeking their comments. In this regard, one of the users, Maritime Association of Nationwide Shipping Agencies – India, vide its email dated 29th December 2023 raised a query with respect to free storage period for 'Export' Laden containers that have been reduced to 3 from existing 7 days and that of 'Exim-Empty' Container is Nil. Also, it had raised concerns with respect to increase in the slab of logistics cost. The said queries are covered by the response provided by NSICTPL in the joint hearing, which has been produced in the later paragraph.

9. As brought out at preceding para no. 1 and 2 above, the Hon'ble High Court of Bombay has stayed the last tariff Order passed by TAMP in the year 2012 and has permitted NSICTPL to levy the then prevailing tariff, which is as per the tariff order dated 30 December 2008 passed by TAMP. The said Court Order is still in force.

To avoid passing of the Order and implementation of the Order by NSICTPL that could amount to contravention of the High Court Order, the TAMP while passing it earlier order dated 17th February 2020 has requested NSICTPL to intimate the Hon'ble Bombay High Court about NSICTPL filing a proposal for General revision of its Scale of Rates (SOR). In this regard, the NSICTPL had furnished a copy of its intimation to the Hon'ble High Court of Bombay about NSICTPL filing a proposal for General Revision of its Scale of Rates with JNPA under Tariff Guidelines, 2019.

Thereafter, vide its order dated 19th December 2019, the Hon'ble High Court modified its interim order dated 2nd July 2012 by clarifying that the amount collected by the NSICTPL pursuant to the approval and implementation of new tariff policy 2019 shall be subject to the order dated 2nd July 2012 and further orders that may be passed by the Court in the said writ petition.

However, consequently a corrigendum was issued on 15th January 2020 by the Hon'ble High Court, clarifying that in the earlier order, word 'not' shall be added after the word 'shall'.

Accordingly, the Hon'ble High Court vide above orders has clarified that the amount collected by the NSICTPL pursuant to the approval and implementation of new tariff policy 2019 shall not be subject to the order dated 2nd July 2012 and further orders that may be passed by the Court in the said writ petition.

10. A joint hearing on the case in reference was held on 3rd January 2024. The NSICTPL made a presentation of the proposal. At the joint hearing, the representatives of NSICTPL and JNPA and other users or organisational bodies were present, wherein certain queries were raised by the trade representatives/ stake holders. Queries raised and their response given by NSICTPL thereon, are tabulated below:

Sr. No.	Query	Response of NSICTPL
1	To revisit the proposed tariff in below cases: • To allow empty storage 2 days' free instead of zero days. • To reconsider the tariff proposal for change in dwell days of Export full containers, from 7 days to 3 days • Storage cost / ground rent is very high and requested to reconsider the proposed tariff for the same. • Refer monitoring cost and SSR cost are high compared to other Terminals and requested to reduce the tariff	The proposed tariff cannot be revisited due to following grounds: • NSICT is eligible to increase tariff by 17% based on ARR, however it has proposed moderated increase @ 7% • Exim Empty Storage tariff : This is a measure to reduce inefficiencies in the logistics chain, improve utilizations thereby leading to better service deliveries, hence, important to retain and maintain. Further, as explained in presentation, NSICT has favored trade by doing moderated increase, and not as per tariff guidelines. • Though revised tariff would have been applicable from April 2023, but, NSICT is foregoing 9 months' tariff increase. • NSICT is also not considering ARR Deficit of previous years while framing revised tariff, though it is allowed to be considered as per the Tariff Guidelines. • Export Full containers free dwell days:- it is in line with the market and neighbouring terminals It is as per guidelines, and the current tariff increase was to be effective from April 2023; but increased is proposed now (9 months delay)
2	To wait for central government guidelines for revising the Tariff, before proposed tariff increase.	The proposal is being revised as per 2019 Tariff Guidelines issued by TAMP and applicable to NSICT.
3	To Revisit the agreement between Terminal Operator & JNPA, before proposed tariff increase.	As per guidelines, we need to frame the tariff as per guidelines. There is no requirement for referring agreement.
4	Effective date of implementation	The new tariff would be applicable after required approval from JNPA – within 30 days from approval.

11. Based on the scrutiny of the proposal, the NSICTPL was requested vide email dated 4th December 2023 and various telephonic communication to furnish additional information/ clarification. The NSICTPL has responded vide its e-mails dated 4th December 2023, 19th December 2023 and 20th December, 2023. The information sought and the response of the NSICTPL thereon are tabulated below :

Sr. No.	Information Sought	Response of NSICTPL
I	**ARR Computation**	
1	Adjustment in respect of items wherein there is variation in figures reported in IND AS and IGAAP. -If financials are as per IND AS how is it that there is no amount appearing in the above mentioned caption?	There are no expenses where the treatment differs in IND AS and IGAAP, hence there is no variation in figures reported.
2	(*i*) Interest on loans- Breakup of amounts considered in the given caption for each year. Also provide the details as to where the same is grouped in financial statements. (*ii*) In point 2.3.1 of the Tariff Guidelines 2019, no specification is provided that interest on loans to the extent related to JNPA should not be excluded while giving effect to the adjustments. Therefore, the same should be considered while calculating interest on loans to be excluded.	(*i*) Breakup of amounts considered and grouping of the same in financial statements is furnished. (*ii*) Bank guarantee commission paid by NSICT towards BG issued. This is not related to interest payment on Loan and hence it is considered as an admissible cost and does not fall under the purview of 2.3.1 of the Tariff Guidelines 2019. NSICTPL has claimed the said commission in previous proposal as well and the same has been allowed by the TAMP order dated 20th February 2020.
II	**Royalty/Revenue Share admissible as per clause 2.2 of the tariff guidelines**	
3	Provide supporting document/ministry order for the second quote of 69.5% considered in the Form -2 of ARR computation	Refer TAMP order of April 2020 section 11 (v) (d) (i) We have considered as per admissible royalty as per Order of April 2020.
III	**Fixed Asset statement as per IGAAP considered in ARR calculation (Form 7)**	
4	If there is no variation in IND AS and IGAAP reporting then why are these amounts of asset not matching with the financial statement of respective years?	On the date of transition to IND AS, the company has availed the deemed cost exemption in relation to the property plant and equipment and hence the net block carrying amount has been considered as gross block carrying amount on that date. As per IGAAP, Gross Block and Accumulated depreciation is continued basis actual cost of assets and balance of accumulated depreciation. There is no difference in Net block between IND AS and IGAAP which can be validated with Financials.

Sr. No.	Information Sought	Response of NSICTPL
5	Figures of addition & disposal of assets shown in GFA schedule does not match with that in financial statement. Provide correct working	On the date of transition to IND AS, the company has availed the deemed cost exemption in relation to the property plant and equipment and hence the net block carrying amount has been considered as - gross block carrying amount on that date. While as per IGAAP, Gross Block and Accumulated depreciation is continued basis actual cost of assets and balance of accumulated depreciation. While there is no difference in Net block between IND AS and IGAAP which can be validated with Financials.
IV	**With regard to the Working Capital in Form no. 3:**	
6	Provide breakup of inventory considered in Form 3- Breakup of inventory (item wise).	Refer Note 19 - a) of Financials as at March 31, 2023; Stores and spares consumed – INR 585.6 Lakhs Six months average considered as per section 2.6 of Tariff Guidelines 2019
7	Sundry Debtors- Financial statement mentions trade receivables then why is the same not considered in Form-3.	Refer Note 1 & Note 2 of Form 3 which state that below two categories of payment to be considered as sundry debtors and there is no such payment hence sundry debtors in not considered - 1. Advance payment of Revenue Share/ royalty to the landlord port flowing from the contractual obligations 2. Advance payment of lease rental/ license fee to the landlord port flowing from contractual obligations Also refer section 2.6 of Tariff guidelines 2019
8	Cash Expenses- Provide working of cash expenses considered in Form 3.	Cash expenses are considered as one month of Total Expenses [Form 1(1)] net of depreciation [Form 7(c)(2)(ii) Cash expenses = Total Expenses (Rs. 83,030 Lakhs) less depreciation (Rs. 9,403 Lakhs) = Rs. 73,627 Lakhs Also refer section 2.6 of Tariff guidelines 2019

Sr. No.	Information Sought	Response of NSICTPL
	Others	
9	Working for ARR Forgone as per guidelines	As per telephonic communication it was informed that the same is due to pending litigation details of which are provided in the Covering letter of the proposal. The amount is derived as a difference between ARR calculation as per guidelines and revenue estimation by NSICTPL.
10	Traffic details considered in Revenue estimation- In Form 4, it is indicated that the average traffic is at 9,31,940 (in Metric Tonnes/ TEUs) and average vessel traffic is at 543 vessels based on the traffic for the years 2020-21 to 2022-23. In the same Form-4, for revenue estimation, NSICTPL has considered various container mix. The aggregate of the said container mix may be matched with the average traffic of 9,31,940 (in Metric Tonnes/ TEUs) and average vessel traffic of 543 vessels and a working in this regard also to be furnished.	In this regard, NSICTPL has furnished certificate, certifying the traffic for the years 2020-21 to 2022-23 and the same matches with the data available with JNPA.
11	In Form 4, revenue in respect of Storage - Export - FCL& LCL (4-7 days) is computed at Rs.354 Lakhs as per New Slab rate. Provide such new slab and computation of Rs.354 Lakhs.	In this regard, NSICTPL has provided with relevant working for computation of the said figure as per the new slab.

12. With reference to the totality of the information collected during the processing of this case, the following position emerges :

(*i*) The Scale of Rates of Nhava Sheva International Container Terminal Private Limited (NSICTPL) was last revised by TAMP vide Order dated 14 February 2012, following the Tariff Guidelines 2005. Vide the said Order, TAMP has effected an across the board reduction of 27.85% over the then prevailing tariff of NSICTPL (i.e. tariff approved for NSICTPL vide Order no. TAMP/55/2008- NSICT dated 30 December 2008). Aggrieved by said reduction in its tariff, the NSICTPL has challenged the tariff order of 14 February 2012 by its Writ Petition No.2954 of 2012 in the Hon'ble High Court of Bombay. The Hon'ble High Court have stayed the operation of the Order and has permitted the Petitioner i.e. NSICTPL to charge at the old (higher) rates. The writ petition is yet to be disposed of by the Hon'ble Court.

(*ii*) In the meanwhile, the Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the MOS, the tariff fixation exercise in respect of the NSICTPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

(*iii*) In this backdrop, the NSICTPL came up with a proposal in November 2019 for revision of its tariff, following the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019. The revision has been sought by the NSICTPL on the tariff as approved by TAMP vide its Order dated 30 December 2008, which was being levied by the NSICTPL based on the Order of the Hon'ble Court. As brought out earlier, the NSICT

has intimated the Hon'ble High Court of Bombay about filing a tariff proposal under the Tariff Guidelines, 2019 before TAMP. Thereafter, in February 2020, the NSICTPL while furnishing the additional information/ clarification has filed its revised proposal after rectifying the errors and incorporating the omission, but without change in the quantum of hike proposed in tariff in its original proposal of November 2019. The revised proposal of February 2020 along with the additional information/ clarification furnished by NSICTPL was approved by TAMP vide its Order dated 20 February 2020, which is now being levied by the NSICTPL based on the Order of the Hon'ble Court.

(*iv*) The NSICTPL has filed its proposal for general revision of its Scale of Rates in March 2023. However, taking into account the finalization of accounts of NSICTPL for FY 2022-23 and Tariff Guidelines 2019, NSCITPL was advised to file revised proposal vide e-mail dated 9th October 2023. Accordingly, revised proposal was filed by NSICTPL on 21st November 2023 and thus the said revised proposal of November 2023 along with the additional information/ clarification furnished by NSICTPL during the processing of the case is considered in the following analysis.

(*v*) (*a*) Clause 2.1 of the Tariff Guidelines, 2019 requires the BOT Operator to assess the Annual Revenue Requirement (ARR) which is the average of the sum of the Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2., 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by TAMP plus Return at 16% on the Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(*b*) The NSICTPL has assessed the Annual Revenue Requirement (ARR) for the three years i.e. 2020-21(Y1), 2021-22 (Y2) and 2022-23 (Y3) duly certified by the practicing Chartered Accountant. The total operating expenditure considered by NSICTPL for the years 2020-21, 2021-22 and 2022-23 for arriving at the average sum of the Actual Expenditure for the respective years is seen to be as per the Audited Annual Accounts of NSICTPL for the respective years.

(*c*) While assessing the ARR, the NSICTPL has not made any adjustments in respect of items where there is variation in figures reported in IND AS (As per Audited Annual Accounts) and Indian Generally Accepted Accounting Principles (IGAAP) in ARR computation, as prescribed in Clause 2.3.2 of the Tariff Guidelines, 2019. In this regard, the NSICTPL has clarified that there is no IND AS adjustments in the financials, in case of the fixed assets, as the NSICTPL has taken carrying value of the Fixed Assets as per the provision of IND AS transition Accounting Standards. Based on the above and also since the Form 1 (wherein the said adjustments need to have been captured) has been certified by a Chartered Accountant, the position as reported by NSICTPL in this regard is relied upon.

(*d*) As prescribed in Clause 2.2 and 2.3.1 of the Tariff Guidelines, 2019, the NSICTPL has excluded the following expenses, which are not admissible in ARR computation, in line with the provisions prescribed in Clause 2.2 and 2.3.1 of the Tariff Guidelines, 2019. The said adjustments are brought out for specific mention:

(*i*) Clause 2.2 of the Tariff Guidelines, 2019, inter alia, stipulates that in those cases where the bidding process was finalized before 29 July 2003, the ARR computation will take into account the Royalty/ Revenue share payable to the landlord port by the BOT operator, to the extent of the next highest bidder. NSICTPL is a BOT operator, who falls in the pre July 2003 era. Thus, in case of NSICTPL, the Royalty paid by NSICTPL to the Licensor port JNPA is admissible as an item of cost to the extent of the next highest bidder. Accordingly, 69.50% of the Royalty as reflected in the Audited Annual Accounts for the years 2020-21 to 2022-23 has been considered by the NSICTPL in the computation of ARR, in line with the clause 2.2 of the tariff guidelines of 2019, which was also followed when the tariff of NSICTPL was being fixed under 2005 Tariff Guidelines.

In the proceedings relating to the case in reference, the NSICTPL has made a mention about an Arbitration award, wherein it has been, inter alia, held that the Royalty per TEU needs to be converted to a Revenue Share and that the JNPA has been directed to amend the License Agreement. Though the License Agreement between JNPT and NSICTPL has been reported to have not been amended, it is premature to state that the said award may have impact on the quantum of the Royalty amount considered in the ARR computation of NSICTPL.

(*ii*) As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, the NSICTPL has excluded the interest on loans, provision for bad and doubtful debts, provision for slow moving stores and spares and unrealised foreign exchange loss as reflected in the Audited Annual Accounts for the years 2020-21, 2021-22 and 2022-23 respectively.

(*iii*) Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019, and based on the adjustments as effected as brought out above, the average expense for the years 2020-21 to 2022-23 works out to Rs. 53,291 lakhs.

(*vi*) (*a*) As per Clause 2.5 of the Tariff Guidelines of 2019, the NSICTPL has worked out the figure of Capital Employed. Capital employed comprises of Gross Fixed assets as arrived as per IGAAP plus capital work in progress as on 31 March 2023. The NSICTPL has furnished workings/ reconciliation with regard to restatement of Gross fixed assets as per IGAAP *vis-a-vis* the Gross fixed assets under IND AS in the Audited Annual Accounts for the year 2022-23, duly certified by a Chartered Accountant. The capital work in progress has been considered based on the audited Annual Accounts for the year 2022-23. The Gross fixed assets at Rs. 1,19,185 Lakhs/- and the Capital Work in Progress at Rs. 416 lakhs as on 31 March 2023, as considered by the NSICTPL are relied upon.

(*b*) Clause 2.6. of the Tariff Guidelines, 2019 stipulates the norms for determining the working capital. Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and lease rental / license fee to the landlord port flowing from the contractual obligations is to be treated as sundry debtors.

(*c*) The NSICTPL has considered Inventory excluding fuel and customized spares to the tune of Rs. 292.79 lakhs, which is seen to be six months average consumption as reflected in the Audited Annual Accounts for the year 2022-23 (*i.e.* Rs. 587.57 lakhs /2= Rs. 292.79 lakhs). The same is considered in the analysis.

(*d*) The NSICTPL has not considered any amount towards Sundry Debtors as part of working capital in Form-1. In this regard, the NSICTPL has confirmed that it does not have any sundry debtors on account of contractual obligation with JNPT as required under clause 2.5 of the Tariff Guidelines, 2019.

(*e*) To determine the Cash expense, the NSICTPL is reported to have excluded non-cash expenses such as depreciation. Thereafter, one-month cash balance has been worked out at Rs. 6,135.57 lakhs/- by NSICTPL.

(*f*) Thus, based on the above the working capital has been worked out at Rs. 6,428.36 lakhs/-

(*g*) Thus, based on the above, the total capital employed including the working capital works out to Rs. 1,26,030 lakhs/-.

(*vii*) As per Clause 2.7 of the Tariff Guidelines, 2019, Return on Capital Employed (ROCE) at 16% is worked out on Capital Employed, which works out to Rs. 20,165 lakhs/-, which is considered in the Annual Revenue Requirement (ARR) computation.

(*viii*) The ARR comprises of the average of the expenditure for the three financial years 2020-21 to 2022-23 plus 16% ROCE. The ARR has been worked out to Rs. 73,456 lakhs/-

(Rs. 53,291 lakhs/- + Rs. 20,165 lakhs/-)

(*ix*) Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2022-23 which is 12.12%. The indexed ceiling ARR has been worked out to Rs. 82,357 lakhs /- (*i.e.* Rs. 73,456 lakhs*1.1212).

(*x*) Based on the Ceiling Indexed ARR as determined at sl. no. (ix) above, the NSICTPL has drawn the proposed Scale of Rates (SOR), as per clause 2.9 of the Tariff Guidelines, 2019.

(*xi*) (*a*) As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic for the years 2022-23 has been considered by the NSICTPL at 9,31,939.67 (in TEUs). The average traffic as considered by NSICTPL in its working matches with the data available with JNPA.

(*b*) As per Clause 2.11.1 of Tariff Guidelines, 2019, the BOT Operators have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. While drawing up the proposed SOR, the NSICTPL is seen to have proposed increase in some tariff items and no increase in some tariff items. The overall impact of the proposed changes in the SOR has been stated to be increased by 7% on the existing tariff being levied by NSICTPL as on date.

The NSICTPL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2020-21 to 2022-23, as required as per Clause 2.11.1. of the Tariff Guidelines, 2019. The said revenue estimation statement as assessed by the NSICTPL has been duly certified by a Chartered Accountant.

The revenue estimation at the proposal level of tariff as assessed by NSICTPL at Rs. 75,919 lakhs/- is seen to be lower than the Ceiling Indexed Annual Revenue Requirement (ARR) of Rs. 82,357 lakhs/-, as discussed earlier, thereby leaving a gap of Rs. 6,438 lakhs/-, which has been left uncovered by the NSICTPL.

The existing SOR prescribes no separate storage charges for Export – FCL&LCL containers up to 7 days at Section 3.9.(2). In the proposed SOR, the NSICTPL has proposed to prescribe charges for storage period of 4-7 days by reducing the free storage period to 3 days in section as referred above. The judgment of NSICTPL in this regard is relied upon.

(*xii*) (*a*) Before we proceed to consider the revised SOR of NSICTPL, it is pertinent here to draw reference to Clause 3.1.1 of the Tariff Guidelines, 2019, which stipulates that in case of the BOT operators, whose tariff have not been reviewed in the past due to litigations pending in the High Courts on the Tariff Orders passed by this Authority, the surplus/ deficit over and above the admissible costs and permissible return, if any, arising during the period of litigation will be subject to either the orders of the respective Courts or as per the treatment to be collectively decided by the Ministry of Shipping (MOS), concerned Major Port Trust, concerned BOT operator and TAMP.

(*b*) As stipulated in Clause 3.1.1 of the Tariff Guidelines, 2019, and based on clarification /information sought by CITPL (a BOT operator at Chennai Port Trust) and PSA SICAL (a BOT Operator at V.O Chidambaranar Port Trust) on treatment of past period surplus, a Draft Policy Framework to decide on the treatment of past period surplus/ deficit, over and above the admissible costs and permissible return arising during the period of litigation in respect of BOT Operators who have approached various High Courts and have obtained stay on the operation of the last tariff Order passed by this Authority, was prepared and forwarded to the MOS *vide* our letter no. TAMP/61/2018-Misc dated 26 April 2019, for deliberation by MOS with the concerned BOT operators, concerned Major Port Trusts and this Authority. The MOS has been reminded in this regard *vide* our letters dated 23 July 2019 and 18 November 2019. The response of MOS is awaited.

(*xiii*) Without giving the impact of any adjustment of past period surplus during the period of litigation, the income at the estimated level of tariff has been kept at the ARR level of Rs.823.57 crores, by considering an increase over the existing level of rates being levied by the NSICTPL

i.e. the Court permitted tariff, as discussed in the earlier paragraphs. If any adjustment of surplus is carried out in the ARR of Rs. 823.57 crores, it may further reduce the ARR and may warrant a reduction in the quantum of increase as sought by NSICTPL over the existing level of tariff *i.e.* the Court permitted tariff.

(*xiv*) In this regard, it is to state that in case of NSICTPL, neither the Hon'ble High Court of Bombay has passed Order disposing of the Writ Petition No. 2954 of 2012 paving a way for treatment of surplus/ deficit, nor has a decision been received from the MOS, on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation. However, as mentioned above, the Hon'ble High Court vide its order dated 19th December 2019 and 15th January 2020 has clarified that the amount collected by NSCITPL pursuant to approval and implementation of new Tariff Policy 2019 shall not be subject to the order dated 2nd July 2012 and further orders that may be passed by the court in the said writ.

(*xv*) As brought out earlier, NSICTPL has stated that while it does not admit to any past surplus, it has voluntarily considered a past period surplus adjustment of Rs. 64.38 crores per annum aggregating to about crores for a period of three years. As brought out earlier, neither the writ petition filed by NSICTPL has been disposed of by the Hon'ble High Court of Bombay paving a way for treatment of surplus/ deficit, nor there has been a Policy Framework from the MOS. In case of NSICTPL, there is a gap of Rs. 64.38 crore between the indexed ceiling ARR and the income estimated at the proposed level of tariff. In other words, even if an adjustment of past period surplus to the tune of Rs. 64.38 crore is effected from the indexed ceiling ARR, the NSICTPL can still continue to levy its proposed increased rates.

(*xvi*) Thus, this Authority has decided to earmark an amount of Rs. 64.38 crores, per annum aggregating to about Rs. 193.14 crores for 3 year to be considered for adjustment towards adjustment of the past period surplus, whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. No. 2954 of 2012 paving a way for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/ (deficit) arising over and above the admissible costs and permissible return during the period of litigation whichever is earlier. In other words, past period surplus amount to the tune of 64.38 crores per annum is deemed to have been adjusted in the current exercise upto a period of 3 year and only a surplus over and above 64.38 crores per annum is to be considered for adjustment in future. It is directed that NSICT will inform Hon'ble Bombay High Court after approval of tariff revision proposal by this authority.

(*xvii*) As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31st December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. It is relevant here to state that in the instant case indexation for the year 2023-24 is already considered in the ARR and for drawing the SOR. The next annual indexation in SOR will be applicable from 1st May 2024. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 60% of the WPI to be announced by this Authority. The annual indexation will be from 1st May 2024 and subsequently on 1st May every year. The indexed SOR shall be intimated by the NSICTPL to the JNPA and the users

13. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Scale of Rates and conditionalities of the NSICTPL.

14. **The revised Scale of Rates and conditionalities of the NSICTPL shall come into force after expiry of 15 days from the date of notification of the Order passed by this Authority in the *Gazette of India* and shall be in force for a period of three years thereafter, subject to annual indexation.** The approval accorded to the Scale of Rates shall automatically lapse thereafter unless specifically extended by this Authority.

15. The tariff of the NSICTPL has been fixed based on the prevailing information and without considering any adjustment of past period surplus relating to the period of litigation. Therefore, whenever the Hon'ble High Court of Bombay passes Order disposing of the Writ Petition no. 2954 of 2012 paving away for treatment of surplus/ deficit or a decision from the MOS is received on the treatment of surplus/(deficit) arising over and above the admissible costs and permissible return during the period of litigation whichever is earlier, as stipulated in clause 3.1.1 of the Tariff Guidelines, 2019, the tariff of NSICTPL approved now would be subject to review then, so as to capture the impact of the surplus that has accrued to NSICTPL during the period of litigation.

16. An analysis of variation will also be made at the time of the next general review of tariff of NSICTPL at the end of the tariff validity period and adjustment of additional surplus will be made in the tariff to be fixed for the next cycle, in line with the stipulation contained in Clauses 3.2.1 and 3.2.2 of the Tariff Guidelines, 2019.

UNMESH SHARAD WAGH,
Chairman, JNPA.

NHAVA SHEVA INTERNATIONAL CONTAINER TERMINAL PRIVATE LIMITED

SCALE OF RATES

PREFACE

This Scale of Rates sets out the charges payable to Nhava Sheva International Container Terminal Private Limited for use of services and facilities provided at the Nhava Sheva International Container Terminal.

1.0 DEFINITIONS

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

1.1 "NSICT" means Nhava Sheva International Container Terminal, a company incorporated in India, its successors and assigns.

1.2 "Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the Director General of Shipping / competent authority.

1.3 "Container" means the standard ISO container, suitable for the transport and stacking of cargo and must be capable of being handled as a unit and lifted by a crane with a container spreader.

1.4 "FCL" means Containers said to contain Full Container Load.

1.5 "Foreign going Vessel" shall mean any vessel other than a coastal vessel.

1.6 "Hazardous container" means a Container containing hazardous goods as classified under IMO.

1.7 "ICD" means Inland Container Depot.

1.8 "LCL" means Containers said to contain Less than full Container Load (Container having cargo of more-than one importer / exporter).

1.9 "Over Dimensional Container" means a Container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers (including boxes having corner casting problem) and Container requiring special devices for lifting is also classified as Over Dimensional Container.

1.10 "Per day" means per calendar day or part thereof.

1.11 "Reefer" means any Container for the purpose of the carriage of goods, which require power supply to maintain the desired temperature.

1.12 "Port" means Jawaharlal Nehru Port Authority (JNPA).

1.13 "Shut Out Container" means a container, which has entered the terminal for export for a vessel as indicated by VIAN and is not connected to the vessel for what so ever reason.

1.14 "Transshipment container" means a Container discharged from one vessel, stored in NSICT and transported through another vessel.

1.15 "VIAN" means Vessel Identification Advise Number.

2.0 GENERAL

2.1 The SOR approved by the Authority is subject to automatic annual indexation at 60% of the Wholesale Price Index (WPI) to be announced by the Authority. The Annual Indexation will be from 1st May every year. The Indexed SOR shall be intimated by the NSICT to the JNPA, users and to the Authority.

2.1 Containers less than and up-to 20' in length will be reckoned as one TEU for the purpose of tariff.

2.3 In general all charges for containers more-than 20 feet in length and up-to 40 in length will be 150% of the charges applicable for 20 feet containers.

2.4 Handling charges for containers more-than 40' in length and up-to 45' in length will be 200% of the charges applicable for 20 feet containers.

2.5 Containers other than that of standard size requiring special devices / slings / handling will be charged as per Section 4 below. Such containers will also include damaged containers and any-other type requiring special devices.

2.6 Container related charges denominated in US dollar terms will be recovered in equivalent Indian Rupees. For this purpose, the rate notified by the Reserve Bank of India or the rate notified by the State Bank of India as may be specified from time to time prevalent on the date of entry of the vessel in to the port limits (in-case of import containers) and on the date of arrival of containers in the Terminal premises (in case of export containers) shall be reckoned as the day for such conversion.

2.7 All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

2.8 (*i*) The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. Likewise, the NSICT shall pay penal interest on delayed refunds.

(*ii*) The rate of penal interest will be 15% per annum. The penal rate chosen will apply to both the NSICT and the port users equally.

(*iii*) The delay in refunds will be counted beyond 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

(*iv*) The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the NSICT. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act and/or where payment of charges in advance is prescribed in this Scale of Rates.

2.9. (*i*) The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(*ii*) System of classification of vessel for levy of Vessel Related Charges (VRC)

(*a*) A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(*b*) A Foreign going vessel of foreign flag can convert to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping and a custom conversion order.

(*iii*) Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate :

(*a*) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(*b*) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(*c*) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(*iv*) Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate.

(*a*) Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) *i.e.* ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario :

(*i*) Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(*ii*) Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

* The Central Board of Excise and Customs Circular No.15/2002-Cus. dated 25th February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(*b*) In case of a Foreign flag vessel converted to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

2.10 The consolidated charges as above include the following elements, *viz* Stevedoring, use of Gantry crane, use of transfer crane, lashing / unlashing, stowage planning etc., wharfage on tare weight of containers and containerized cargo, transportation and contribution towards railway infrastructure.

2.11 The users will not be required to pay charges for delays beyond a reasonable level attributable to the NSICT.

2.12 Incase vessel idle due to non-availability or breakdown of the shore-based facilities of NSICT or any other reasons attributable to the NSICT, rebate equivalent to berth hire charges payable to JNPA accrued during the period of idling shall be allowed.

3.0 Consolidated charges for movement and handling of containers and containerized cargo.

SECTION – 1 CHARGES FOR ALL NORMAL AND REEFER CONTAINERS

A. Ship to yard / yard to ship using port crane.

Particulars	Foreign-going (INR)	Coastal (INR)
Per Loaded Container		
Not Exceeding 20' in length	6,572.00	3,943.00
Exceeding 20' and up-to 40' in length	9,858.00	5,914.50
Over 40" in length	13,144.00	7,886.00
Per ICD Container		
Not Exceeding 20' in length	6,572.00	3,943.00
Exceeding 20' and up-to 40' in length	9,858.00	5,914.50
Over 40" in length	13,144.00	7,886.00
Per Empty Container		
Not Exceeding 20' in length	5,586.00	3,352.00
Exceeding 20' and up-to 40' in length	8,379.00	5,028.00
Over 40" in length	11,172.00	6,704.00

B. Yard to Rail / Rail to Yard for ICDs only

Particulars	Foreign-going (INR)	Coastal (INR)
ICD Container		
Not Exceeding 20’ in length	1,047.00	1,047.00
Exceeding 20’ and up-to 4,0’ in length	1,570.50	1,570.50
Over 40” in length	2,094.00	2,094.00

C. Yard to Truck / Truck to Yard

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded Container		
Not Exceeding 20’ in length	1,047.00	1,047.00
Exceeding 20’ and up-to 40’ in length	1,570.50	1,570.50
Over 40” in length	2,094.00	2,094.00
Empty Container		
Not Exceeding 20’ in length	1,047.00	1,047.00
Exceeding 20’ and up-to 40’ in length	1,570.50	1,570.50
Over 40” in length	2,094.00	2,094.00

Note : Normal containers are the general type containers, not falling under any special categories mentioned subsequently.

SECTION – 2 CHARGES FOR ALL TRANSHIPMENT CONTAINERS

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded Container		
Not Exceeding 20’ in length	9,858.00	5,915.00
Exceeding 20’ and up-to 40’ in length	14,787.00	8,872.50
Over 40” in length	19,716.00	11,830.00
Empty Container		
Not Exceeding 20’ in length	8,379.00	5,027.00
Exceeding 20’ and up-to 40’ in length	12,568.50	7,540.50
Over 40” in length	16,758.00	10,054.00

Note:

1. A transshipment container is the one, which is discharged from one ship, stored in the yard and transported through other vessel A transshipment container sent to CFS, ICD or taken delivery locally shall be charged the local container rate.

2 A Shut out charge as per Section 7 shall apply if, —

(*a*) The vessel nomination is changed ; or

(*b*) If the vessel nomination is changed from a later vessel to an earlier vessel after the earlier vessel is berthed.

SECTION – 3 CHARGES FOR ALL HAZARDOUS CONTAINER

A. Ship to yard using port crane.

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded Container		
Not Exceeding 20' in length	9,858.00	5,915.00
Exceeding 20' and up-to 40' in length	14,787.00	8,872.50
Over 40" in length	19,716.00	11,830.00
ICD Container		
Not Exceeding 20' in length	9,858.00	5,915.00
Exceeding 20' and up-to 40' in length	14,787.00	8,872.50
Over 40" in length	19,716.00	11,830.00
Transshipment Container		
Not Exceeding 20' in length	14,787.00	8,872.00
Exceeding 20' and up-to 40' in length	22,180.50	13,308.00
Over 40" in length	29,574.00	17,744.00

Yard to Rail for ICDs only

Particulars	Foreign-going (INR)	Coastal (INR)
ICD		
Not Exceeding 20' in length	1,571.00	1,571.00
Exceeding 20' and up-to 40' in length	2,356.50	2,356.50
Over 40" in length	3,142.00	3,142.00

B. Yard to truck

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded		
Not Exceeding 20' in length	1,571.00	1,571.00
Exceeding 20' and up-to 40' in length	2,356.50	2,356.50
Over 40" in length	3,142.00	3,142.00

SECTION – 4 CHARGES FOR ALL OVER DIMENSIONAL CARGO CONTAINERS.

A. Ship to yard using port crane.

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded		
Not Exceeding 20' in length	9,858.00	5,915.00
Exceeding 20' and up-to 40' in length	14,787.00	8,872.50
Over 40" in length	19,716.00	11,830.00

Particulars	Foreign-going (INR)	Coastal (INR)
ICD		
Not Exceeding 20’ in length	9,858.00	5,915.00
Exceeding 20’ and up-to 40’ in length	14,787.00	8,872.50
Over 40” in length	19,716.00	11,830.00
Transshipment		
Not Exceeding 20’ in length	14,787.00	8,872.00
Exceeding 20’ and up-to 40’ in length	22,180.50	13,308.00
Over 40” in length	29,574.00	17,744.00
Empty		
Not Exceeding 20’ in length	8,379.00	5,027.00
Exceeding 20’ and up-to 40’ in length	12,568.50	7,540.50
Over 40” in length	16,758.00	10,054.00

B. Yard to Rail for ICDs only.

Particulars	Foreign-going (INR)	Coastal (INR)
ICD		
Not Exceeding 20’ in length	1,571.00	1,571.00
Exceeding 20’ and up-to 40’ in length	2,356.50	2,356.50
Over 40” in length	3,142.00	3,142.00
Empty		
Not Exceeding 20’ in length	1,571.00	1,571.00
Exceeding 20’ and up-to 40’ in length	2,356.50	2,356.50
Over 40” in length	3,142.00	3,142.00

C. Yard to truck

Particulars	Foreign-going (INR)	Coastal (INR)
Loaded Container		
Not Exceeding 20’ in length	1,571.00	1,571.00
Exceeding 20’ and up-to 40’ in length	2,356.50	2,356.50
Over 40” in length	3,142.00	3,142.00
Empty Container		
Not Exceeding 20’ in length	1,571.00	1,571.00
Exceeding 20’ and up-to 40’ in length	2,356.50	2,356.50
Over 40” in length	3,142.00	3,142.00

SECTION 5 – Hatch covers of vessels

Opening hatch cover and replacing it (charge per hatch cover) Rate in US$

A. When placing the hatch cover on the quay 201.99

B. Without placing the hatch cover on the quay 80.83

SECTION 6 – Re-stows FCLs & MTs Rate in US$

Shifting containers within the vessel (per move)

A. Hatch to Hatch shifting

FCL & MT 40’ 100.98

FCL & MT 20’ 67.32

B. Other than (A).

FCL & MT 40’ 404.02

FCL & MT 20’ 269.35

Handling charges for containers more than 40’ length and up to 45’ in length will be 200% of the applicable charges.

SECTION 7 - Shut outs / Denomination of containers

A. Shutouts Charges **Rate in US$**

FCL & MT 40’ 202.01

FCL & MT 20’ 134.67

B. Transportation of shutout containers **Rate INR**

FCL & MT 40’ 6,462

FCL & MT 20’ 4,308

Note : In the case of Shutout Container, the free storage period will be given to the Container in accordance with free storage period prescribed at Serial no.5 of Section 9 from the time the container is first received till the shutout event. If the free storage period is exceeded, storage charges shall be calculated after the expiry of the free period up to the time of lift on.

Handling charges for containers more than 40′ length and up to 45′ in length will be 200% of the applicable charges for FCL & MT 20′

SECTION 8

(*i*) Reefer Monitoring and Connection (per 4 hours) **Rate in US$**

FCL & MT 40’ 15.48

FCL & MT 20’ 10.31

(*ii*) Pre- Trip inspection (including supply of electricity) 62.01

(*iii*) Cleaning of containers

FCL & MT 40’ 4.95

FCL & MT 20’ 2.48

Note:

1. A refrigerated container used for carriage of perishable goods with provision for electrical supply to maintain the desired temperature is considered a reefer container.

2. Above tariff does not include parameter setting or repair and maintenance of malfunctioning reefers. Charges are also applicable to re-stow reefer containers.
3. Pre-trip inspection of the reefer containers, connection or disconnection services on board the vessel and cleaning of containers are Optional services and shall be rendered when requested
4. Additional electricity charges of US$ 44.16 for 20' & US$ 66.24 for 40' per calendar day will be applicable in case of Reefer Restow Containers also.
5. Handling charges for containers more than 40' length and up to 45' in length will be 200% of the applicable charges for FCL & MT 20'

SECTION 9 – Dwell time charges

Charges for Container storage

Sl. No	Particulars	Rate per container per day or part thereof (in US $)		
		Up-to 20' in Length	Above 20' and up-to 40' in Length	Above 40' in Length
1	Import-FCL & LCL			
	0- 3 days	Free	Free	Free
	4-15 days	9.19	18.38	27.57
	16-30 days	18.38	36.76	55.14
	Beyond 30 days	36.76	73.52	110.28
2	Export – FCL & LCL			
	0- 3 days	Free	Free	Free
	4-7 days	4.03	8.06	12.09
	8-15 days	8.06	16.12	24.18
	16-30 days	16.12	32.24	48.36
	Beyond 30 days	32.24	64.48	96.72
3	Export / Import – Empty containers			
	First 15 days	9.19	18.38	27.57
	16-30 days	18.38	36.76	55.14
	Beyond 30 days	36.76	73.52	110.28
4	ICD – Import & Export – Loaded & empty (Moved by Rail)			
	First 7 days	Free	Free	Free
	8-15 days	3.99	7.98	11.97
	16-30 days	7.98	15.96	23.94
	31 - 45 days	15.96	31.92	47.88
	Thereafter	31.92	63.84	95.76

5	Transshipment – Loaded			
	First 7 days	Free	Free	Free
	8-45 days	9.19	18.38	27.57
	Thereafter	18.38	36.76	55.14
6	Transshipment – Empty			
	First 15 days	9.19	18.38	27.57
	16-30 days	18.38	36.76	55.14
	Beyond 30 days	36.76	73.52	110.28
7	Shutout – Loaded & empty			
	First 15 days	9.19	18.38	27.57
	16-30 days	18.38	36.76	55.14
	Beyond 30 days	36.76	73.52	110.28
8	Change of status to local delivery			
	First 3 days	Free	Free	Free
	4—15 days	9.19	18.38	27.57
	16-30 days	18.38	36.76	55.14
	Beyond 30 days	36.76	73.52	110.28

torage period for a container shall be reckoned from the day following the day of landing up to the day of loading / delivery / removal of container. Free dwell time (storage) allowed shall be exclusive of customs notified holidays and port non-working days.

1. Transshipment containers whose status is subsequently changed to local FCL/LCL/ ICD shall lose the concessional storage charges. The storage charges for such containers shall be recovered at par with the relevant import containers storage tariff.

2. In case of ICD container, if documentation is submitted within 48 hours of date of landing of containers, the storage period of 7 free days for loading the container on rail will be applicable. Else the free storage period prescribed for normal containers will be applicable.

3. Normal import containers subsequently changing the mode of dispatch to rail will enjoy the free period applicable to normal import containers only.

4. The total storage period for a shutout container shall be calculated from the day following the day when the container has become shutout till the day of Shipment /delivery.

5. Over high and over dimensional containers shall attract thrice the normal applicable charges.

6. For hazardous container, the storage charges shall be 25% more under the respective slabs given above.

7. The users will not have to pay storage charges for the period during which NSICT is not in a position to deliver/ shift the containers when requested by the users.

8. The storage charges on abandoned FCL containers/shipper owned containers shall be levied up to the date of receipt of intimation of abandonment in writing or 75 days from the date of landing of container**,** whichever is earlier subject to the following conditions:

(*i*) The consignee can issue a letter of abandonment at anytime.

(*ii*) If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,

(*iii*) The Line shall resume custody of container along with cargo and either take it back or remove it from the port premises; and

(*iv*) The Line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

(*v*) The container Agent/MLO shall observe the necessary formalities and bear the cost of transportation and de-stuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all necessary actions are taken by the shipping lines for destuffing the cargo.

(*vi*) Where the container is seized/confiscated by the Custom Authorities and the same cannot be destuffed within the prescribed time limit of 75 days, the storage charges will cease to apply from the date the Customs order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and destuffing. Otherwise, seized/confiscated containers should be removed by the Lines/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the date of such removal.

SECTION 10 - **Procedure and Charges for Inter Terminal Transfer of Transshipment Containers between NSICT and any other terminal at JNPA.**

The following procedure and charges for inter-terminal transfer of transshipment containers between any other terminal at JNPA and NSICT :

(*i*) Procedure for handling transshipment (TP) containers:

(a) TP containers discharged at other terminals and bound to be loaded at the NSICT, will be transported by the any other terminals at JNPA to NSICT yard.

(b) Similarly, TP containers discharged at the NSICT and bound to be loaded at the other terminals at JNPA, will be transported by NSICT to the other terminals at JNPA.

(*ii*). Charges for handling transshipment (TP) containers:

(*a*) If a container is discharged by the other terminal and loaded by the NSICT at its terminal ,the charges will be as under:

(*i*) 50% of transshipment container handling charges as per the other terminal's Scale of Rates will be charged to the Line by the other terminal and in addition, also levy charge towards inter-terminal transfer as per its Scale of Rates

(*ii*) For the same container the NSICT will charge 50% of the transshipment container handling charges as per its Scale of Rates and, in addition, also levy a charge of INR 1047.00 (for 20')/ INR 1435.89 (for 40') towards Lift On

(*b*) If a container is discharged by the NSICT and loaded by the other terminal, the charges will be as under :

(*i*) The NSICT will charge 50% of transshipment container handling charges to the Line as per its Scale of Rates, in addition also levy INR 4,115 (for 20') or INR 6,172.5 (for 40') towards inter-terminal transfer and also levy a charge of INR 1047.00 (for 20')/ INR 1,435.5 (for 40') towards Lift On

(*ii*) For the same container the other terminal will charge 50% of TP handling charges as per the other terminal's Scale of Rates.

SECTION 11 – Other charges

S. No.	Particulars	Rate per Container (in INR.)	
		Not exceeding 20' in length	Exceeding 20' in length and up to 40' in length
(i)	Fixing/ removal of seal	372.00	372.00
(ii)	Additional service charge for stacking containers in the designated yard for customs examination or for any other purpose, by prior arrangement.	439.00	658.50
(iii)	Charges for shifting within the Terminal for customs examination or any other purpose and subsequent loading of containers for delivery with Prior arrangement with user.	4,115.00	6,172.50
(iv)	POD Change	4,616.00	6,924.00
(v)	Change of status of Container from Rail to Road or vice-versa	4,616.00	6,924.00
(vi)	Fixing/removal of Hazardous Sticker (per container)	372.00	372.00
(vii)	One Door Open Charges per container	1,860.00	1,860.00
(viii)	Cancellation of documents - per EIR	186.00	186.00
(ix)	Non- declaration / Mis declaration of Hazardous containers	5,579.00	5,579.00
(x)	On- Wheel Customs inspection (per container)	1,116.00	1,116.00
(xi).	Vessel overstay due to User's fault - Rate per hour	1,85,973.00	1,85,973.00
(xii).	Sending Containers survey report / Photo at Gate through electronic process per container.	744.00	744.00

Notes

1. Cancellation charge applies when EIR is cancelled at the request of customers.
2. "One Door Open" charge is applicable for handling container which requires only one door to be kept open (e.g.. Onion) and when door opening and securing is carried by the terminal.
3. "Fixing of Seal ". Bottle seals shall be fixed on every container arriving at the terminal - by rail /road/sea without a proper bottle seal on it, prior to allowing its entry. This shall be done without the written consent of the shipping line. The list of such containers on which a seal is affixed by the terminal shall be intimated to the lines. Seal charges will be applicable for removal of seals also.
4. "Fixing/ removal of Hazardous Sticker". Hazardous stickers indicating IMCO class only shall be affixed on a container carrying hazardous cargo. Similarly old stickers on the container shall be removed from a container carrying non-hazardous cargo. In either case, the customer has to intimate in writing to NSICT to undertake the said activity, within the terminal.
5. On- Wheel Customs inspection. The on-wheel inspection of a container shall be allowed to a nominated point only, on the written request of the customer. The container doors can be opened only under customs supervision. No stuffing/ destuffing, even partially, shall be permitted within the terminal premises.

6. Non-Declaration/Mis-declaration of Hazardous container. The Customer has to declare the hazardous nature of the cargo as per the IMCO rules and furnish the relevant hazardous details to NSICT. The above charges are only for non-declaration/mis-declaration of the hazardous nature of the container. The liabilities and cost towards the consequences -arising due to non-declaration or mis-declaration shall, however, be on the customer account.

7. Handling charges for containers more than 40' length and up to 45' in length will be 200% of the applicable charges for FCL & MT 20'.

8. Inter Terminal rail handling charges is INR 400/- for 20' container and INR 800/- for 40' container at all JNPA terminals. These Charges are subject to modification as and when new rate structure is agreed between JNPA Terminals.

SECTION 12 –Mandatory User Charge (MUC).

An amount of INR 170/- per container will be levied from 28th October 2021 onwards on all containers (except transshipment and coastal) handled at the Major Ports and BOT Terminals operating thereat towards Mandatory User Charge (MUC) for the Logistics Data Bank (LDB) service rendered by NICDCL for a period of three years thereon i.e upto 27th October 2024 (TAMP/40/2021-MUC). The approval accorded would automatically lapse thereafter unless specifically extended by the Authority.

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